

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,)	
)	
v.)	
)	
BIJAN RAFIEKIAN)	Case Number 1:18-cr-457-AJT-1& 2
)	
and)	
)	
KAMIL EKIM ALPTEKIN,)	
)	
Defendants.)	
_____)	

ORDER

Defendant Bijan Rafiekian has filed a Memorandum of Law in Support of Renewed Motion for a New Trial Pursuant to Federal Rule of Criminal Procedure 33 [Doc. No. 387] (the “Renewed New Trial Motion”) based, in part, on the United States’ alleged inadequate disclosure of classified information and its improper argument to the jury based on the summary of that undisclosed classified information, admitted at trial as DX 66. The United States has filed an opposition to the Renewed New Trial Motion, [Doc. No. 390] and, in further support of its opposition, an *ex parte, in camera* Supplemental Filing under CIPA Section 4, [Doc. No. 391], in response to which, Defendant has filed a Motion to Compel Disclosure of Classified Information and *Ex Parte* Statement, [Doc. No. 392]. The United States has opposed Defendant’s Motion to Compel Disclosure of Classified Information and *Ex Parte* Statement. [Doc. No. 398]

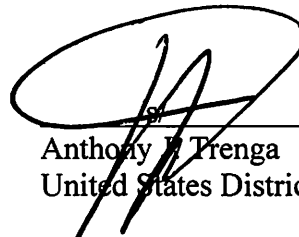
The Court has again reviewed the classified information at issue in light of court proceedings since its last review that resulted in the issuance of the summary admitted as DX 66, including how that summary was used at trial and the issues raised and the claims made during those proceedings and in the Renewed New Trial Motion, and the United States’ opposition

thereto. Based on that review and the Court's assessment of the admissibility and reliability of the classified information, and the extent to which it would constitute exculpatory evidence or evidence helpful or favorable to the defendant, the Court concludes that, as required, the summary set forth in DX Exhibit 66 provides Defendant Rafiekian with substantially the same ability to make his defense as would disclosure of the specific classified information. *See* Classified Information Protection Act, 18 U.S.C. app. 3, § 6(c)(1)(B). In particular, the Court finds that the undisclosed classified information does not contain information that is exculpatory or helpful or favorable to the Defendant other than as disclosed in the summary, DX 66. Accordingly, it is hereby

ORDERED that Defendant's Motion to Compel Disclosure of Classified Information and *Ex Parte* Statement [Doc. No. 392] be, and the same hereby is, DENIED, without prejudice to Defendant Rafiekian's position in support of his Renewed New Trial Motion that the United States improperly used DX 66 at trial.

The Clerk is directed to forward copies of this Order to all counsel of record

Alexandria, Virginia
October 8, 2021



Anthony J. Trenga
United States District Judge